

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

FRIDAY, THE TWENTY EIGHTH DAY OF JUNE
TWO THOUSAND AND TWENTY FOUR



PRESENT

THE HONOURABLE SMT JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL PETITION No.1861 of 2021

Between:

1. Smt. Kota Yaswanthi Reshma, W/o. Kota Eswar Chandra Vidhya Sagar, aged about 32 years, Household, R/o. D.No. 10/471, Sundaramgiri Vari Street, Santhapeta, Nellore City, SPSR Nellore District.
2. Sri. Kota Eswar Chandra Vidhya Sagar @ Vidhya Sagar, S/o. Kota Guru Bramham, aged about 35 years, Occ: Business, R/o. D.No. 10/471, Sundaramgiri Vari Street, Santhapeta, Nellore City, SPSR Nellore District.

...Petitioners/Accused Nos.4 & 5

AND

1. The State of Andhra Pradesh, Rep. by Public Prosecutor, High Court of Andhra Pradesh at Amaravati.
2. Smt. Jonnalagadda Karisyami, W/o. P.L.Vikas, aged about 24 years, Occ: Household, R/o. D.No. 7/381-17, Vasavi Nagar, NGO Colony, Kadapa City.

...Respondents

Petition filed under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash the Proceedings in C.C.No.789/2020 on the file of the Hon'ble 2nd Additional Judicial Magistrate

of First Class, Kadapa which is registered for the offences U/S 498-A IPC Sections 3 and 4 of Dowry Prohibition Act.

I.A. NO: 1 OF 2021

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay all further proceedings including appearance of these petitioners in C.C.No.789/2020 on the file of the Hon'ble 2nd Additional Judicial Magistrate of First Class, Kadapa pending disposal of the present Criminal Petition.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Smt K Pallavi, Advocate for the Petitioners and the Public Prosecutor on behalf of the Respondent No.1 and of Sri Rosedar S.R.A, Advocate for the Respondent No.2.

The Court made the following:

APHC010110482021

IN THE HIGH COURT OF ANDHRA

PRADESH

[3396]



AT AMARAVATI

(Special Original Jurisdiction)

FRIDAY, THE TWENTY EIGHTH DAY OF JUNE

TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SMT JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL PETITION NO: 1861/2021

Between:

1. SMT. KOTA YASWANTHI RESHMA, W/O. KOTA ESWAR CHANDRA VIDHYA SAGAR, AGED ABOUT 32 YEARS, HOUSEHOLD, R/O. D.NO. 10/471, SUNDARAMGIRI VARI STREET, SANTHAPETA, NELLORE CITY, SPSR NELLORE DISTRICT.
2. SRI. KOTA ESWAR CHANDRA VIDHYA SAGAR @ VIDHYA SAGAR, S/O. KOTA GURU BRAMHAM, AGED ABOUT 35 YEARS, OCC PRIVATE EMPLOYEE, R/O. D.NO. 10/471, SUNDARAMGIRI VARI STREET, SANTHAPETA, NELLORE CITY, SPSR NELLORE DISTRICT.

...PETITIONER/ACCUSED(S)

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
2. SMT JONNALAGADDDA KARISYAMI, W/O. P.L.VIKAS, AGED ABOUT 24 YEARS, OCC HOUSEHOLD, R/O. D.NO. 7/381-17, VASAVI NAGAR, NGO COLONY, KADAPA CITY.

...RESPONDENT/COMPLAINANT(S):

Counsel for the Petitioner/accused(S):

1. K PALLAVI

Counsel for the Respondent/complainant(S):

1. ROSEDAR SRA
2. PUBLIC PROSECUTOR (AP)

The Court made the following:

ORDER:

The instant petition under Section 482 of Code of Criminal Procedure, 1973¹ has been filed by the Petitioners/Accused Nos.4 and 5, seeking quashment of proceedings against them in C.C.No.789 of 2020 on the file of the Court of II Additional Judicial Magistrate of First Class, Kadapa registered for the offences punishable under Section 498-A of the Indian Penal Code² and Sections 3 and 4 of the Dowry Prohibition Act³.

2. Petitioners herein are the sister and brother-in-law of Accused No.1.

3. The facts of the case, in brief, are as follows:

a) The marriage of Respondent No.2/Complainant with Accused No.1 was performed on 29.11.2015 at Chennai as per Hindu rites and caste customs.

b) At the time of marriage, on the demand of Accused Nos.1 to 4, the parents of the Complainant gave cash of Rs.15.00 lakhs, 125 sovereigns of gold, 5 kgs of silver and house site worth Rs.5 lakhs towards dowry.

c) In addition to that, the parents of the Complainant also gave Rs.50,000/- to Accused No.1 for his clothes and Rs.1,00,000/- to Petitioner/Accused No.4 towards *Adapaduchu Lanchanams*.

¹ for short 'Cr.P.C'

² for short 'IPC'

³ for short 'D.P.Act'

d) On the day of engagement, they also gave silver jug and diamond rings to the Complainant and Accused No.1.

e) On the next day of engagement, the parents of the Complainant also gave Rs.10,00,000/- to the Accused in the presence of senior paternal uncle and aunt of the Complainant.

f) After the marriage, all the Accused started harassing the Complainant by demanding additional dowry.

g) Accused No.1 used to beat the Complainant and all the Accused subjected her to mental cruelty.

h) Accused Nos.2 to 5 used to threaten the Complainant stating that they would perform another marriage to Accused No.1, if she fails to bring additional dowry.

i) After delivering a male child, the Complainant was dropped at her parental home stating that she became fat.

j) Though the father of the Complainant tried to send her to the matrimonial home, all the Accused did not allow her by demanding additional dowry.

k) As such, Respondent No.2/Complainant lodged a report with Chinnachowk U/G Police Station, Kadapa against Accused Nos.1 to 5 and the same was registered as a case in Crime No.296 of 2019 for the offences punishable under Section 498-A IPC and Sections 3 and 4 of

D.P.Act. After completion of investigation, Police filed charge sheet against all the Accused for the said offences.

4. Grounds for quashment:

Aggrieved by the registration of the said case, the present petition is filed by Petitioners/Accused Nos.4 and 5 to quash the proceedings against them in the above C.C on the following grounds:

(i) Petitioners herein are innocent persons and they have nothing to do with the matrimonial life of Respondent No.2 and Accused No.1.

(ii) Petitioners are falsely implicated in the present case in order to make Accused No.1 to heed to the illegal demands of Respondent No.2.

(iii) Petitioners herein were married on 04.03.2012 and they have been living separately in Nellore and the family of Respondent No.2 is at Chennai.

(iv) Having addicted to lead a lavish lifestyle, Respondent No.2 herself left the matrimonial society.

(v) There are no specific allegations against the Petitioners either in the complaint or in the charge sheet.

(vi) No specific overt acts were attributed against the Petitioners to attract the alleged offences against them. Therefore, continuation of proceedings against the Petitioners is an abuse of process of law.

Arguments Advanced at the Bar

5. Heard Ms.K.Pallavi, learned counsel for the Petitioners, Ms.D.Prasanna Lakshmi learned Assistant Public Prosecutor for State/Respondent No.1 and Sri Rosedar S.R.A., learned counsel for Respondent No.2.

6. Learned counsel for the Petitioners would submit;

- Petitioners herein are Accused Nos.4 and 5, who are the married sister-in-law and her husband.
- Except omnibus allegations, there are no specific allegations attributed against the Petitioners.
- The marriage of Petitioners/Accused Nos.4 and 5 had taken place in the year 2012, whereas, the marriage of the Complainant and Accused No.1 was in the year 2015.
- Complaint would clearly show that the Petitioners have been living at Nellore and the Complainant and Accused No.1 have been living at Chennai.
- Except a casual reference of the names of the Petitioners, there is nothing specific against the Petitioners. Hence, prayed to quash the proceedings against the Petitioners.
- In support of his contentions, learned counsel has placed reliance on the judgments of the Hon'ble Apex Court in **Preeti Gupta and**

another v. State of Jharkhand and another⁴, Pritam Ashok Sadaphule and others v. State of Maharashtra and another⁵, Anil Khadkiwala v. State (Government of NCT of Delhi) and another⁶, Kapil Agarwal and others v. Sanjay Sharma and others⁷, and Kahkiashan Kausar @ Sonam and others v. State of Bihar and others⁸.

7. Learned counsel for Respondent No.2 would state;

- The FIR and the statements of the witnesses before the Police would clearly indicate that the Petitioners played a main role in the destruction of the family the Complainant.
- Specific allegations are made against the Petitioners and as such, there are no grounds to quash the proceedings against the Petitioners. Hence, prayed for dismissal of the petition.

8. Learned Assistant Public Prosecutor conceded to the arguments advances by the learned counsel for Respondent No.2.

Point for Determination

9. Having heard the submissions of the learned counsel representing both the parties, now the point that would emerge for determination is:

Whether there are any justifiable grounds for quashment of proceedings against the Petitioners/ Accused Nos.4

⁴ (2010) 7 SCC 667
⁵ (2015) 11 SCC 769
⁶ (2019) 17 SCC 294
⁷ (2021) 5 SCC 524
⁸ (2022) 6 SCC 599

and 5 in C.C.No.789 of 2020 on the file of the Court of II
Additional Judicial Magistrate of First Class, Kadapa?

Determination by the Court

10. A bare perusal of Section 482 makes it clear that the Code envisages that inherent powers of the High Court are not limited or affected so as to make orders as may be necessary; (i) to give effect to any order under the Code or, (ii) to prevent abuse of the process of any Court or, otherwise (iii) to secure ends of justice. A court while sitting in Section 482 jurisdiction is not functioning as a court of appeal or a court of revision. It must exercise its powers to do real and substantial justice, depending on the facts and circumstances of the case. These powers must be invoked for compelling reasons of abuse of process of law or glaring injustice, which are against sound principles of criminal jurisprudence.

11. In **Preeti Gupta** (case referred to supra), the Hon'ble Apex Court held as under:

"32. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

33. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be

extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinized with great care and circumspection. Experience reveals that long and protracted criminal trials lead to rancor, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of amicable settlement altogether. The process of suffering is extremely long and painful."

(emphasis supplied)

12. In **Kahkashan Kausar** (case referred to supra), it was held by the Hon'ble Apex Court as follows:

"18. The above-mentioned decisions clearly demonstrate that this court has at numerous instances expressed concern over the misuse of section 498A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.

22. Therefore, upon consideration of the relevant circumstances and in the absence of any specific role attributed to the accused appellants, it would be unjust if the Appellants are forced to go through the tribulations of a trial, i.e., general and omnibus allegations cannot manifest in a situation where the relatives of the complainant's husband are forced to undergo trial. It has been highlighted by this court in varied instances, that a criminal trial leading to an eventual acquittal also inflicts severe scars upon the accused, and such an exercise must therefore be discouraged."

(emphasis supplied)

13. In the case on hand, a fair look at the contents of the information submitted to the Police by Respondent No.2 would show that the marriage of Respondent No.2 with Accused No.1 was performed on 29.11.2015, whereas, the marriage of the Petitioners/ Accused Nos.4 and 5 had taken place on 04.03.2012 and since then, the Petitioners have been residing separately at Nellore and they have not resided with the family of Respondent No.2. Omnibus allegations were made against the Petitioners to the effect that they used to harass Respondent No.2 by commenting that she could bring less dowry and also by demanding additional dowry. The charge sheet would also reveal a casual reference of the names of the Petitioners along with the other Accused and no specific overt acts were attributed against the Petitioners.

14. Time and again the Hon'ble Apex Court and this Court categorically held that a tendency has been developed for roping in all the relatives of the husband in dowry harassment made in order to pressurize the immediate family of the husband. No specific instances have been mentioned either in the Charge sheet or in the complaint against the Petitioners/Accused Nos.4 and 5. All the allegations that were made against them are either vague or general in nature. Therefore, this Court is of the opinion that continuation of the impugned proceedings against the Petitioners/Accused Nos.4 and 5 is nothing but an abuse of process of the Court. In such circumstances, this Court is of the view to exercise

the inherent powers under Section 482 Cr.P.C to prevent abuse of the process of the Court and to secure the ends of justice.

15. In view of the foregoing discussion and the decisions referred to *supra*, this Court is of the view that continuation of criminal proceedings against Petitioners/Accused Nos.4 and 5 is undesirable and the same are liable to be quashed.

16. In result, the Criminal Petition is allowed. The proceedings against Petitioners/Accused Nos.4 and 5 in C.C.No.789 of 2020 on the file of the Court of II Additional Judicial Magistrate of First Class, Kadapa registered for the offences punishable under Section 498-A of IPC and Sections 3 and 4 of the D.P.Act are hereby quashed.

Pending miscellaneous petitions, if any, shall stand closed.

Sd/- G.HELAKA NAIDU
ASSISTANT REGISTRAR

//TRUE COPY//


+ SECTION OFFICER

To

1. The II Additional Judicial Magistrate of First Class, Kadapa, YSR Kadapa District.
2. The Sub-Inspector of Police, Chinna Chowk U/G Police Station, YSR Kadapa District.
3. One CC to Smt K Pallavi, Advocate [OPUC]
4. One CC to Sri Rosedar S.R.A, Advocate [OPUC]
5. Two CCs to The Public Prosecutor, High Court of Andhra Pradesh at Amaravathi [OUT]
6. Three CD Copies

HIGH COURT

TK

DATED:28/06/2024

ORDER

CRLP.No.1861 of 2021



ALLOWING THE CRIMINAL PETITION